

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID B. RICE, JR.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 12-278 Erie
)	
MICHAEL J. ASTRUE,)	
)	
Defendant.)	

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on November 7, 2012, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on March 20, 2014, recommended that the Commissioner's motion for summary judgment (*ECF No. 17*) be denied, and that Rice's motion for summary judgment (*ECF No. 14*) be denied to the extent that it requests an award of benefits but granted insofar as it seeks a vacation of the Commissioner's administrative decision, and a remand for further proceedings. It was also recommended that the Commissioner's decision be vacated, and that the case be remanded for further consideration of Rice's applications for DIB and SSI benefits. Service was made on all parties by NEF. No objections were filed. After de novo review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 9th day of April, 2014; IT IS HEREBY ORDERED that the Commissioner's motion for summary judgment (*ECF No. 17*) is DENIED, and that Rice's motion for summary judgment (*ECF No. 14*) is denied to the extent that it requests an award of benefits but GRANTED insofar as it seeks a vacation of the Commissioner's administrative decision, and a remand for further proceedings.

It is further ORDERED that the Commissioner's decision is vacated, and that the case is remanded for further consideration of Rice's applications for DIB and SSI benefits. The Commissioner is ORDERED to "reopen and fully develop the record" before determining whether Rice is "disabled" within the meaning of the Act.

The report and recommendation of Magistrate Judge Baxter, dated March 20, 2014, is adopted as the opinion of the court.

BY THE COURT:

s/ Donetta W. Ambrose
Donetta W. Ambrose
United States Senior District Judge